

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

JOEY KIMBROUGH,

Plaintiff,

v.

AMERICAN EXPRESS COMPANY AKA
AMERICAN EXPRESS NATIONAL BANK

and

TRANS UNION LLC

Defendants.

Case No. 1:22-cv-01993-TWP-MJD

**OMNIBUS RESPONSE IN
OPPOSITION TO PLAINTIFF'S
OBJECTIONS AND MOTIONS
FOR RECONSIDERATION**

In response to Plaintiff's Objection to Court's Order on Plaintiff's Motion for Sanctions and Motion for Continuance Dated 9/8/2023 [ECF No. 51], Plaintiff's Motion for Reconsideration [ECF No. 52], Plaintiff's Motion for Reconsideration of the Court's Order Granting Defendant's Motion to Compel Arbitration [ECF No. 56], and Plaintiff's Objection to Court's Order Granting Defendant's Motion to Compel Arbitration Dated 9/8/2023 [ECF No. 58], Defendant American Express National Bank ("American Express") files this Omnibus Response. American Express addresses each filing in turn.

I. Plaintiff's Objection to Court's Order on Plaintiff's Motion for Sanctions and Motion for Continuance Dated 9/8/2023 [ECF No. 51]

There is no merit to Plaintiff's objections contained in this filing. Plaintiff attempts to relitigate issues that this Court has already decided in its Order Denying Plaintiff's Request for Entry of Default [ECF No. 17] and its Order on Motion for Sanctions and Motion for Continuance [ECF No. 48]. For the reasons already argued by American Express on the record, which American express incorporates herein [ECF Nos. 14, 16 & 32], these objections should be overruled.

II. Plaintiff's Motion for Reconsideration [ECF No. 52]

In this motion, Plaintiff asks the Court to reconsider its Order [ECF No. 48] denying Plaintiff's Motion for Sanctions and Motion for Continuance. In the motion, Plaintiff simply repeats his previous arguments to this Court. This is not an appropriate use of a motion to reconsider. "The Court already considered these arguments and rejected them." *Ford Motor Credit Co. LLC v. Jim True Ford Mercury, Inc.*, No. 119CV04368RLYTAB, 2021 WL 6050000, at *2 (S.D. Ind. Dec. 21, 2021) (denying a motion to reconsider that "simply repeats and repackages their previous arguments"). Additionally, any new arguments for granting the motion that were not previously raised are not proper to raise in a motion for reconsideration. *See Anton Realty, LLC v. Guardian Brokers Ltd., Inc.*, No. 1:13-CV-01915-JMS, 2015 WL 4878249, at *2 (S.D. Ind. Aug. 14, 2015).

For the reasons already argued by American Express on the record, which American Express incorporates herein [ECF Nos. 14, 16 & 32], the Motion for Reconsideration should be denied. Plaintiff has not established grounds for this Court to reconsider its previous ruling.

III. Plaintiff's Motion for Reconsideration of the Court's Order Granting Defendant's Motion to Compel Arbitration [ECF No. 56]

In this motion, Plaintiff asks the Court to reconsider its Order [ECF No. 49] granting American Express's Motion to Compel Arbitration. In the motion, Plaintiff simply repeats his previous arguments to this Court. This is not an appropriate use of a motion to reconsider. "The Court already considered these arguments and rejected them." *Ford Motor Credit Co.*, 2021 WL 6050000, at *2 (denying a motion to reconsider that "simply repeats and repackages their previous arguments"). Additionally, any new arguments for granting the motion that were not previously raised are not proper to raise in a motion for reconsideration. *See Anton Realty*, 2015 WL 4878249, at *2.

For the reasons already argued by American Express on the record in support of its motion to compel arbitration, which American express incorporates herein [ECF Nos. 29, 30 & 46], the Motion for Reconsideration should be denied because the Court was correct to compel arbitration of Plaintiff's claims. Plaintiff has not established grounds for this Court to reconsider its previous ruling.

IV. Plaintiff's Objection to Court's Order Granting Defendant's Motion to Compel Arbitration Dated 9/8/2023 [ECF No. 58]

There is no merit to Plaintiff's objections contained in this filing. Plaintiff attempts to relitigate issues that this Court has already decided in its Order On Motion to Compel Arbitration [ECF No. 49]. In the objections, Plaintiff simply repeats his previous arguments to this Court. This is improper for the reasons stated above. *See supra* Section III. For the reasons already argued by American Express on the record, which American express incorporates herein [ECF Nos. 29, 30 & 46], these objections should be overruled.

CONCLUSION

For the foregoing reasons, American Express respectfully request that the Court overrule Plaintiff's objections and deny Plaintiff's motions for reconsideration.

Dated: October 13, 2023.

Respectfully submitted,
By: /s/ Adam R. Hoock

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 13, 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system and certify that a true and correct copy of the foregoing was provided to all parties and counsel of record.

/s/ Adam R. Hoock
Attorney